

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

In re:  
STEPS AMERICA, LLC  
Debtor.

§ Case No. 21-40065  
§ (Chapter 11)  
§  
§

**MOTION FOR RELIEF FROM AUTOMATIC STAY AGAINST COLLATERAL AND  
WAIVER OF THIRTY DAY HEARING REQUIREMENT**

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FIELD WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Comerica Bank N.A. (“Comerica”) creditor herein, who would show the Court that Comerica should be granted relief from the stay now in effect upon the following grounds:

**JURISDICTION**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 13334. This matter is a core proceeding within the meaning of 28 U.S.C. §157.

2. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 1408 and 1409.

3. This Motion is brought under Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure and applicable Bankruptcy Local Rules.

4. The statutory basis for the relief requested herein is 11 U.S.C. § 362(d).

**BACKGROUND FACTS**

5. Comerica, a secured creditor in this case, files this Motion for Relief from Automatic Stay, and pursuant to 11 U.S.C. §362, would show the Honorable U.S. Bankruptcy Court that good cause exists to modify the automatic stay as shown more particularly below.

6. This Motion is further filed pursuant to Bankruptcy Rules 9014 and 4001. This Motion is a core proceeding pursuant to 11 U.S.C. § 157(b)(2)(G).

7. On or about November 18, 2015 Steps America, Inc. (“Borrower”) and Comerica executed a Revolving Installment Note evidencing a term loan in the original principal amount of \$40,000.00 (the “Agreement”) issued by Comerica to Borrower (the “Loan”). A true and correct copy of the Agreement is attached hereto as Exhibit “A”.

8. On April 8, 2008, a UCC-1 Financing Statement was filed with the Texas Secretary of State perfecting Comerica’s security interest in the business assets of Borrower, including inventory, furniture, equipment and accounts receivable (“Collateral”). True and correct copy of the Security Agreement and referenced UCCs are attached hereto as Exhibit “B” and “C”.

10. The Debtor failed to abide by the terms of the Loan by failing and refusing to make payments as required under the terms of the Agreement and the Repayment Schedule after receiving demand from Bank of America. As of the date the Debtor filed this case, the Debtor owed to Bank of America at least \$19,259.32 on the Note.

11. In addition to the above indebtedness, at the time of the bankruptcy filing the Debtor’s checking account at Comerica was overdrawn by \$35,631.90. The Security Agreement in its first paragraph defines the indebtedness the security agreement covers to include “overdraft indebtedness.” Thus as of the date of bankruptcy the total indebtedness owing to Comerica was \$54,891.22.

**REQUEST FOR RELIEF FROM AUTOMATIC STAY**

12. Comerica moves for some form of adequate protection. Comerica's counsel did not receive timely of the cash collateral hearings. The Debtor Schedules lists inventory of \$100,000 and accounts receivable in the amount of \$30,000 in its Schedule A/B. The Debtor also lists office furniture and office equipment valued at \$12,000 in its Schedule A/B. Comerica seeks adequate protection in the form of monthly payments from the Debtor to protect the diminution in Comerica's collateral. The accounts and inventory, in particular, are being used and diminished each month. Alternatively, Comerica should be granted relief from the automatic stay to allow it to proceed with all lawful non-bankruptcy remedies, to take possession of its Collateral and apply it to the amount due under the Loan. The total amount due and owing as of the date of filing of the bankruptcy is at least \$58,000.

THEREFORE, Comerica Bank respectfully prays for an order granting adequate protection payments for the use of its collateral or in the alternative termination of the stay against the Collateral to allow Bank of America to proceed with its lawful remedies against the Collateral according to the Agreement and for such other and further relief, special and general, in equity or law, that the Honorable Court deems fair and just.

Respectfully submitted,

/s/ Richard G. Dafoe  
Richard G. Dafoe  
State Bar No. 05309500  
Waddell Serafino Geary Rechner Jenevein, P.C.  
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ATTORNEYS FOR COMERICA BANK, N.A.

**CERTIFICATE OF CONFERENCE**

I hereby certify that on March 1, 2021, I conferred with Eric Liepins, the Debtor's attorney and he does not oppose the relief requested in this Motion.

/s/ Richard G. Dafoe  
Richard G. Dafoe

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served on the 2<sup>ND</sup> day of March, 2021, to the parties listed below and to those requesting notice either electronically or by U.S. first class mail:

Eric A. Liepins  
12770 Coit Road  
Suite 1100  
Dallas, TX 75251

Scott Seidel (SBRA V)  
Sub V Chapter Trustee  
6505 West Park Boulevard, Ste. 306  
Plano, TX 75093

U.S. Trustee  
Office of the U.S. Trustee  
110 N. College Ave., Suite 300  
Tyler, TX 75702

John M. Vardeman  
UST Office  
110 N. College St., Suite 300  
Tyler, TX 75702

American Express National Bank  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, D. 20006

Bank of America  
P.O. Box 982234  
El Paso, TX 79998

Capital One  
PO Box 60599  
City of Industry, CA 91716-0599

Citi Bank - COSTCO  
PO Box 790046  
St. Louis, MO 63179-0046

Citi Bank - Simplicity  
Box 6500  
Sioux Falls, SD 57117

Comeria Bank  
Card Member Service  
PO Box 6353  
Fargo, ND 58125-6353

Comerica Bank  
4730 TX 121  
The Colony, TX 75056

Cosmos  
2244 Luna Road Suite 100  
Carrollton, TX 75006

Discover Card  
PO Box 30952  
Salt Lake City, UT 84130-0952

DW Distribution  
1200 E Centre Park Blvd  
DeSoto, TX 75115

Eleganza  
223 LBJ Freeway Suite 200  
Dallas, TX 75234

Everest Stone  
15565 Wright Brothers Drive  
Addison, TX 75001

FNBO  
PO Box 3331  
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GVH  
254 W Airport Freeway  
Irving, TX 75062

Home Depot  
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Sioux Falls, SD 57108

Lowes  
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MS International  
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Mulligan Funding, LLC  
4715 Viewridge Ave, Suite 100  
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Pearl Capital (Cash Advanced Loan)  
525 Washington Blvd, Suite 2200  
Jersey City, NJ 07310

PPP SBA Loan  
14925 Kingsport  
Fort Worth, TX 76155

Custom Capital USA  
1 MacArthur Place #350  
Santa Ana, CA 92707

Small Business Administration  
14925 Kingsport Rd.  
Fort Worth, Texas 76155-2243

/s/ Richard G. Dafoe  
Richard G. Dafoe